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Message Text

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PAGE 01 TOKYO 00568 160840Z

12
ACTION L-02

INFO OCT-01 EA-06 ISO-00 JUSE-00 RSC-01 SSO-00 /010 W
---------- 049147
O 160747Z JAN 75
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC IMMEDIATE 7322

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E.O. 11652: N/A
TAGS: CASC CPRS PFOR SNAR JA
SUBJ: JUDICIAL ASSISTANCE - JUSTICE DEPT DEPOSITION REQUEST - U. S. VS KEARNEY

REF: STATE 008127 AND PREVIOUS

1. FOLLOWING TELEGRAM RECEIVED BY CONGEN TOKYO MORNING OF 16 JAN: QUOTE FM MARCUS STOPEL ASSISTANT FEDERAL PUBLIC DEFENDER CECIL F. POOLE COUNSEL FOR DEFENDANT POWELL AND DEFENDANT KING ON BEHALF OF ALL DEFENDANTS SAN FRANCISCO CA TO LEWIS CROSSON AMERICAN CONSUL GENERAL AMERICAN CONSULATE TOKYO JAPAN RE: DEPARTMENT OF JUSTICE REQUEST - U. S. V. KEARNEY. COUNSEL FOR ALL DEFENDANTS DEMAND AN OPPORTUNITY TO INTERVIEW DEPONENTS ADAMS AND GAMBLE PRIOR TO THE TAKING OF DEPOSITIONS. THIS INTERVIEW IS ESSENTIAL IN ORDER FOR COUNSEL TO BE ADEQUATELY INFORMED AT THE TIME THE DEPOSITIONS ARE TAKEN AND IS NECESSARY TO ALLOW COUNSEL TO REPRESENT DEFENDANTS IN A CONSTITUTIONALLY ADEQUATE MANNER. COUNSEL REQUESTS THAT THE INTERVIEW BE ARRANGED AT LEAST TWO FULL DAYS PRIOR TO THE ACTUAL TAKING OF THE DEPOSITIONS. PLEASE ADVISE. END QUOTE

2. EMB HAS APPROACHED GOJ ON THIS SUBJECT AND IT IS WILLING TO PERMIT INTERVIEW PROVIDED REGULAR DEPOSITION IS NOT DELAYED AND ALSO PROVIDED PRISONERS ARE WILLING AND RULES OF PRISON ARE FOLLOWED WHICH INCLUDES HAVING JAPANESE OFFICIAL PRESENT. INTERVIEWS MUST BE CONDUCTED DURING BUSINESS HOURS OF 0900 TO 1600 ON SATURDAY, JAN 18 AND MONDAY JAN 20. NO INTERVIEW PERMITTED ON SUNDAY.
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3. COMMENT: THIS PERMISSION BY GOJ IS EXTRAORDINARY SINCE
THERE IS
NO RIGHT UNDER JAPANESE LAW OR CONSTITUTION FOR DEFENSE COUNSEL TO
INTERVIEW PROSECUTION WITNESSES IN ADVANCE OF TRIAL. DEFENSE
COUNSEL MUST AGREE TO STRICTLY ABIDE BY PRISON RULES SET FORTH
PARA 2. IT SHOULD ALSO BE EMPHASIZED THAT PRISONERS CANNOT BE
COMPELLED TO ATTEND INTERVIEW OR ANSWER QUESTIONS.

4. ACTION REQUESTED: IF DEPT PERCEIVES NO OBJECTION, EMB REQUESTS
THAT THIS REPLY BE COMMUNICATED TO PUBLIC DEFENDER IN SAN
FRANCISCO.
HODGSON

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Disposition Authority: GolinoFR
Disposition Case Number: n/a
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